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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

JOE MURL DOUGLAS, JR.,

Defendant and Appellant.

B187939

(Los Angeles County
Super. Ct. No. NA066218)

APPEAL from a judgment of the Superior Court of Los Angeles County.
Arthur Jean, Jr., Judge. Affirmed with sentence modification ordered.

Joe Murl Douglas, Jr., in pro. per.; and William D. Farber, under appointment by
the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney
General, Pamela C. Hamanaka, Assistant Attorney General, Dawn S. Mortazavi, Deputy
Attorney General, for Plaintiff and Respondent.

Joe Murl Douglas, Jr., challenges his conviction for a threat in violation of Penal Code section 422.¹ We appointed counsel to represent Douglas in this appeal. Counsel filed an opening brief which contained an acknowledgment that he had been unable to find any arguable issues and which requested that we review the entire record pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). Douglas filed several supplemental briefs. After review, we affirm the judgment and order the trial court to correct the abstract of judgment to reflect the sentence it imposed on Douglas.

FACTUAL AND PROCEDURAL BACKGROUND

Douglas was charged with making a threat in violation of section 422. Mohammad Ullah testified that he told Douglas to leave Ullah's store and Douglas responded "I am going to kill you." Then Douglas called someone and asked the person to "bring my gun." Ullah was scared and called the police.

Douglas represented himself. His defense was that he had engaged in an illegal transaction with Ullah. Specifically, Douglas sold his food stamps to Ullah for fifty cents on the dollar. When Douglas threatened to report Ullah, Ullah made up a story to implicate Douglas. Ullah denied Douglas's version of events.

Douglas testified in his defense. On direct examination, Douglas testified that "I am a disabled American veteran. I have a condition that means that I have extra bones in the balls of both feet. It is a genetic disorder. [¶] I also in 1993 was hit by two cars both going in excess of 65 miles an hour, punctured my lung." "Fractured my spine in five places. Fractured my pelvis in 27 places and fractured my left leg in five places. I have pin, a plate, and a screw in my back. I have a rod in my leg." Douglas continued: "I am telling you this because I don't believe that anybody can honestly think that I would take a risk of re-injuring myself by this bizarre behavior." On cross-examination, the prosecutor questioned Douglas about his prior burglary convictions.

¹ Undesignated statutory citations are to the Penal Code.

During closing argument, Douglas argued “This comes to who you believe. Mr. Ullah has lied.” The jury rejected his defense. It found him guilty as charged. The trial court then found that Douglas suffered from two prior convictions as defined in section 667.5, subdivision (b). The court struck a third prior for purposes of sentence. The court sentenced him to two years for the threat. The total sentence was four years.

In this court, counsel was appointed to represent Douglas. Counsel filed a *Wende* brief, finding no issues and requesting that this court review the record. Douglas then filed three supplemental briefs.

DISCUSSION

I

In his supplemental briefs, Douglas raises several issues with respect to (1) his pro per status; (2) his investigator; (3) introduction of his priors; (4) the failure to disclose the contents of a psychiatric examination with the defense and to halt trial on the basis of the examination; (5) prosecutorial misconduct for allowing Ullah to testify even though Ullah was not truthful; (6) the failure to provide Douglas with a 911 tape in a timely manner and the failure to provide names of relevant police officers; and (7) the failure to allow Douglas to introduce medical records to support his testimony regarding his disabilities.

Douglas also reminds this court that at the time he was arrested he had been in the process of “positively redirecting what I do on a daily basis.” Douglas had informed the jury of the steps that he had been taking to improve his life including registering for college courses. He argues to this court as he argued to the jury “[t]he bottom line is that I was doing too many positive things to waste my time or energy to repeatedly threaten [*sic*] anyone.”

Douglas concludes: “The [appellant] contends that the crime of [criminal] threat against Mr. Ullah on 20 June 2005 by defendant Joe Murl Douglas never happened, the reason for the accusation was to stop the defendant from reporting Mr. Ullah’s violation of federal law.”

II.

Douglas's arguments are not based on a correct interpretation of the facts at this stage of the proceedings, contain statements that are not supported by the record, and fail to show any miscarriage of justice warranting a reversal of his criminal conviction. For example, while Douglas clearly believes Ullah lied on the stand, the jury reached a contrary conclusion. (See *People v. Najera* (2006) 138 Cal.App.4th 212, 215 ["We view the evidence in the light most favorable to the verdict and resolve all conflicts in its favor"].) While Douglas now states that his investigator was forced upon him, the record indicates the court recommended Charlie Watson and Douglas responded "[t]hat sounds perfect. I'd like to call him." Thus, the record belies his factual statements. Similarly, while Douglas states the names of police officers were withheld from him, the record indicates the officers were brought to court and dismissed only after the judge considered Douglas's offer of proof.

Where Douglas's factual assertions are correct, he fails to show legal error or prejudice. (Cal. Const., art. VI, § 13 [no reversal for procedural errors absent a "miscarriage of justice"].) For example, Douglas correctly states that the trial court would not allow him to admit his medical charts. The trial court found that the evidence was confusing and that Douglas had already testified regarding his disabilities. There was no error in the trial court's conclusion. (See Evid. Code § 352 [allowing court to exclude confusing and misleading evidence].) However, even assuming the court erred, Douglas does not show any harm from the error. (See *People v. Guerra* (2006) 37 Cal.4th 1067, 1113 [requiring prejudice from evidentiary error for reversal of conviction].) He was permitted to testify regarding his disabilities and used his testimony during his closing argument. Similarly, while Douglas argues the court should not have allowed cross-examination on his priors, the examination was relevant impeachment evidence even though Douglas had successfully moved to bifurcate the trial on the priors. (Evid. Code § 788.)

We have reviewed the entire record and find that none of the arguments Douglas makes has merit. We are satisfied that Douglas's appointed counsel has fully complied

with his responsibilities and that no arguable issues exist. (*Wende, supra*, 5 Cal.3d at p. 441.)

III.

In reviewing the record, an error in the abstract of judgment became apparent. Although the court sentenced Douglas to a total of four years, the abstract of judgment incorrectly reflects a two year total. The abstract should be modified to correct this clerical error. (*People v. Mitchell* (2001) 26 Cal.4th 181, 185.)

DISPOSITION

The case is remanded to the trial court for the court to correct the abstract of judgment to reflect a total four year term and forward a copy to the proper prison authorities. In all other respects the judgment is affirmed.

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COOPER, P. J.

We concur:

BOLAND, J.

FLIER, J.